

Attachments: ATT2213000.gif; ATT2213001.gif; ATT2213002.gif; ATT2213003.gif; ATT2213004.xml

Attachment A

[III.ii.6] Chapter 6. Determining Veteran Status and Eligibility for Benefits

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[III.ii.6.1] 1. Determining Veteran Status

Contents

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- b. What Constitutes Active Service?
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Change Date

November 15, 2004

[III.ii.6.1.a] a. Definition: Veteran

A **veteran** is a person who

- served in the *active* military, naval or air service, and
- was discharged or released under conditions other than dishonorable.

Reference: For more information on the definition of the term "veteran" for purposes of compensation, Dependency and Indemnity Compensation (DIC) and death pension, see ☐ 38 CFR 3.1(d).

[III.ii.6.1.b] b. What Constitutes Active Service?

Active service includes

- active duty

- any period of *active* duty for training during which a person is disabled or dies from
 - a disease or injury incurred or aggravated in the line of duty, or
 - an acute myocardial infarction, a cardiac arrest, or a cerebrovascular accident while proceeding directly to, or returning directly from, a period of active duty for training, and
- any period of *inactive* duty training during which a person is disabled or dies from an
 - injury incurred or aggravated in the line of duty, or
 - acute myocardial infarction, a cardiac arrest, or a cerebrovascular accident that occurred during such training or while proceeding directly to, or returning directly from, such training.

References. For

- a definition of the term active duty, see ☐38 CFR 3.6(b), and
- more information on definitions of active duty and inactive duty, see
 - ☐38 U.S.C. 101(24)
 - ☐38 U.S.C. 106 (d)
 - ☐38 CFR 3.6(a), and
 - ☐38 CFR 3.6(e).

[III.ii.6.1.c]c. Primary Eligibility Criteria

The primary factor in determining basic eligibility to Department of Veterans Affairs (VA) benefits is veteran status.

Eligibility for

- *live* benefits is based on the claimant's veteran status, and
- *death* benefits is based on the claimant's status as the spouse, parent or child of a deceased veteran.

[III.ii.6.1.d]d. Secondary Eligibility Criteria

If initial review of the evidence available establishes potential veteran status, consider the secondary eligibility criteria listed below.

- Are the active service dates and character of discharge verified?
- If the evidence does not show a discharge under conditions other than dishonorable, has VA made a determination of character of discharge?
- Have the benefit-specific eligibility criteria been met?

References. For more information on

- verification of service dates and character of discharge, see ☐M21-1MR, Part III, Subpart ii, 6.5 and ☐M21-1MR, Part III, Subpart ii, 6.6
- benefit-specific eligibility criteria, see ☐M21-1MR, Part III, Subpart ii, 6.7.

[III.ii.6.1.e]e. Service Department Findings Binding on VA With Respect to Service

In ☐Spencer v. West, 13 Vet. App. 376 (2000), the United States Court of Appeals for Veterans Claims (CAVC) held that active service dates certified by the military are binding for the purpose of making determinations on entitlement to benefits.

In the *Spencer* case, the veteran was discharged as "an alcohol abuse rehabilitation failure" on February 14, 1983. Because of problems with the urine specimen that formed the basis for the

discharge, a military correction board corrected his records to show continuous active duty service until August 15, 1985. The CAVC held that service connection could be established for a disability incurred between February 14, 1983, and August 15, 1985.

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[III.ii.6.2] **2. Duty Status and Eligibility of Reservists**

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- c. Reserve Programs in Which Service by Reservists Can Be Considered Active Duty for Purposes of Establishing Eligibility for VA Benefits
- d. Types of Reservist Duty That Are Not Considered Full-Time Duty in the Uniformed Services
- e. Developing for a Claim Submitted by a Reservist

Change Date

November 15, 2004

[III.ii.6.2.a] **a. Duties of the Reservist**

Generally, Reserve and Guard members without prior active service undergo a period of active duty for training (ACDUTRA), lasting from four to seven months. This training may be taken in a single period or as two separate periods.

Reference: For information on National Guard Service, see ☐M21-1MR, Part III, Subpart ii, 6.3.

[III.ii.6.2.b] **b. Eligibility of Reservists for Compensation and Pension**

A Reservist may meet the criteria for establishing veteran status for compensation and pension purposes if he/she

- dies or becomes disabled from
 - a disease or injury incurred or aggravated in the line of duty during a period of *active* duty for training, or
 - an acute myocardial infarction, a cardiac arrest, or a cerebrovascular accident that occurred while the person was proceeding directly to, or returning directly from, a period of active duty for training
- dies or becomes disabled from an
 - injury incurred or aggravated in the line of duty during a period of *inactive* duty for training, or
 - acute myocardial infarction, a cardiac arrest, or a cerebrovascular accident that occurred during such training or while the person was proceeding directly to, or returning directly from, a period of active duty for training, or
- performs full-time duty in the Armed Forces *other than* active duty for training.

[III.ii.6.2.c] **c. Reserve Programs in Which Service by Reservists Can Be Considered Active Duty for Purposes of Establishing Eligibility for VA Benefits**

Since the 1960's, the Reserve components have had several programs in which members serve full-time in operational or support positions but are never formally called to active duty. This type of service, whether it lasts one day or three years, is classified by the service departments as "active duty for training (ACDUTRA)." Such programs include the

- Active Guard Reserve (AGR), and
- Active Duty Support (ADS) Program.

The term "full-time duty in the uniformed services" is not defined in ☐38 U.S.C. or ☐38 CFR. However, an opinion issued by the General Counsel on November 9, 1988, makes it clear that

- despite the military's ACDUTRA classification, VA has the authority to declare certain types of service performed by Reservists to be "active duty" for the purposes of establishing eligibility for VA benefits, and
- service in the Reserves meets the definition of active duty if the facts of record establish that the service was
 - full-time, and
 - for operational or support purposes, as opposed to training.

[III.ii.6.2.d]d. Types of Reservist Duty That Are Not Considered Full-Time Duty in the Uniformed Services

Certain types of Reservist duty are clearly not considered "full-time duty in the uniformed services." These types include

- Initial Active Duty for Training (IADT)
- Annual Training (AT), and
- Active Duty Training (ADT).

[III.ii.6.2.e]e. Developing for a Claim Submitted by a Reservist

Follow the steps in the table below to develop a claim submitted by a Reservist.

Step	Action
1	Unless it is clear from the <i>DD Form 214, Certificate of Release or Discharge from Active Duty</i> , that the Reservist's service is <i>not</i> "full-time duty in the uniformed services," develop with the service department from the appropriate component listed in <input type="checkbox"/> M21-1MR, Part III, Subpart iii, Chapter 2.
2	<ul style="list-style-type: none"> • Request the <ul style="list-style-type: none"> ◦ type of duty, and ◦ full-time status, and • ask the service department to indicate whether the service was <ul style="list-style-type: none"> ◦ operational or support duty, or ◦ for training purposes.
3	<p>If verification</p> <ul style="list-style-type: none"> • <i>is</i> received showing that the veteran's service was <ul style="list-style-type: none"> ◦ for operational or support services, go to Step 4, or ◦ for training purposes, go to Step 5, or • <i>is not</i> received from the service department and all development is

completed, go to Step 6.

- 4 If it can be verified that the veteran's service was for operational or support services, then the service qualifies as active duty.
- 5 If it is verified that the veteran's service was for training purposes, then the service does not qualify as active duty.
- 6 If the information needed cannot be obtained from the service department, contact the Compensation and Pension Service Procedures Development staff (212A) for further assistance.

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[III.ii.6.3] **3. Duty Status and Eligibility of Personnel in the National Guard Service**

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- a. National Guard Service in ACDUTRA Does Not Qualify as Active Duty
- b. Qualifying Service Under 10 U.S.C.
- c. Qualifying Service Under 32 U.S.C.
- d. Verification of National Guard Service
- e. National Guard Personnel Discharged for a Disability

Change Date

April 19, 2005

[III.ii.6.3.a] **a. National Guard Service in ACDUTRA Does Not Qualify as Active Duty**

The Army National Guard (ARNG) and the Air National Guard (ANG) operate full-time operational and support programs similar to the Ready Reserves. However, ☐38 U.S.C. 101(22) provides separate definitions of "active duty for training" for Guard personnel and Reservists.

While the definition for Reservists permits the interpretation that full-time duty for purposes other than training *is* active military, naval or air service, the definition for Guard personnel does *not* permit this interpretation.

Therefore, full-time operational/support service performed by Guard personnel in ACDUTRA status does *not* qualify as "active duty" for purposes of establishing eligibility for VA benefits *unless* the member or former member has a service-connected (SC) disease or injury that was incurred or aggravated during the ACDUTRA period.

Exception: For special provisions as to basic eligibility for Loan Guaranty benefits, see ☐M21-1MR, Part IX, Subpart i, 5.

References: For more information on

- active duty for training, see ☐38 CFR 3.6(c)
- inactive duty for training, see ☐38 CFR 3.6(d), and
- active/inactive duty for training for National Guard personnel, see ☐38 CFR 3.7(m).

[III.ii.6.3.b]b. Qualifying Service Under 10 U.S.C.

If a Guard unit, or an individual member, is activated under the authority of ☐10 U.S.C., the members who report for active duty, which is characterized as Federal Active Duty, have qualifying service for ☐38 U.S.C. purposes until deactivated.

In some cases, a member may be ordered to active duty for training under the authority of ☐10 U.S.C. 672(d) which constitutes "active duty for training" for ☐38 U.S.C. purposes. If an individual's orders specify activation to temporary duty under ☐10 U.S.C., further development regarding the purpose of the activation is not needed *unless* there is evidence in the file showing that the purpose of the activation was to train the individual.

The order to active duty *must* state that service is under ☐10 U.S.C. This fact is frequently reflected on the *DD Form 214*.

[III.ii.6.3.c]c. Qualifying Service Under 32 U.S.C.

Full-time National Guard service is considered active duty for training under ☐38 U.S.C. 101(22)(C) if performed under ☐32 U.S.C. 316, or ☐32 U.S.C. 502, 503, 504, or 505. This is true regardless of whether the member is

- performing operational duty, or
- undergoing training.

National Guard service does *not* meet the definition of "active military, naval, or air service" under ☐38 U.S.C. 101(22) unless the member or former member is disabled during service and, therefore, subject to an exception outlined in ☐38 U.S.C. 101(24) or ☐38 U.S.C. 106(b)(3).

Notes:

- Operational duty includes Active Guard Reserve (AGR) and Active Duty Support (ADS), which apply to Guard personnel as well as to Reservists serving in these capacities.
- Since 1964, there has been authority, under ☐32 U.S.C. 502(f), to assign to full-time operational duty National Guard members who provide full-time support to the Guard components, even though they are not activated.

[III.ii.6.3.d]d. Verification of National Guard Service

The type of National Guard service should be identified on the *DD Form 214*. If the information is not indicated on the *DD Form 214*, develop with the appropriate component listed in M21-1MR, Part III, Subpart iii, 2 (TBD) or M21-1, Part III, Chapter 4.

Note: If the *DD Form 214*, or the response to development with the service department, indicates that service was under both ☐10 U.S.C. and ☐32 U.S.C., consider the service to be under ☐10 U.S.C.

[III.ii.6.3.e]e. National Guard Personnel Discharged for a Disability

An individual meets the definition of "veteran" if

- the individual was injured while performing "active service" in the National Guard
- the injury is compensable, *and*
- the individual was discharged or released from active service.

Note: The term "released" means that the individual was returned to civilian status even though he/she was not relieved of the obligation to serve at a future time under ☐38 U.S.C. 101(2). The

individual does not have to be discharged or otherwise separated from the National Guard.

References: For information on what constitutes "active military, naval, or air service," see

- ☐ M21-1MR, Part III, Subpart ii, 6.1.b, and
- ☐ 38 CFR 3.6(a).

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[III.ii.6.4] **4. Minimum Active Duty Service Requirements**

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- a. General Policy Regarding Minimum Active Duty Requirements
- b. Entitlement to VA Benefits When the Minimum Active Duty Requirements Are Not Met
- c. Exceptions to the Minimum Active Duty Requirement
- d. Entitlement to Benefits Before Enactment of 38 U.S.C. 5303A

Change Date

November 15, 2004

[III.ii.6.4.a] **a. General Policy Regarding Minimum Active Duty Requirements**

The minimum active duty service requirement of ☐ 38 CFR 3.12a(a) must be met, in accordance with ☐ 38 U.S.C. 5303A, by all persons, including officers, who

- originally enlisted in a regular component of the Armed Forces after September 7, 1980, *or*
- entered on active duty after October 16, 1981, *and*
- have neither previously completed a continuous period of active duty of at least 24 months nor been discharged or released from active duty under ☐ 10 U.S.C. 1171.

Note: In the case of a delayed enlistment, the entry date for purposes of this provision is the date of entry on active duty, not the date of swearing in, which may have preceded actual entry into active duty.

[III.ii.6.4.b] **b. Entitlement to VA Benefits When the Minimum Active Duty Requirements Are Not Met**

An individual who does not meet the minimum active duty service requirements is not eligible for any benefit under ☐ 38 U.S.C. or under any other law administered by VA except

- benefits for, or in connection with, a SC disability or death
- insurance benefits provided by ☐ 38 U.S.C. Chapter 19, and/or
- refunds of a participant's contributions to the educational benefits program provided by ☐ 38 U.S.C. Chapter 32.

[III.ii.6.4.c] **c. Exceptions to the Minimum Active Duty Requirement**

The table below outlines exceptions to the minimum active duty requirements.

Exception	Description/Restrictions
Discharge	<i>Description:</i>

under ☐10
U.S.C. 1171

Allows for an "early-out" discharge within three months of the expiration of the term of enlistment or extended enlistment.

Note: This discharge is not available to officers.

Restrictions for persons in the Air Force, Navy and Marine Corps.

This discharge is not available to persons in the Air Force, Navy and Marine Corps who are discharged with *less* than 33 months of service, as the minimum period of enlistment for these branches of service is three years.

Restrictions for persons in the Army:

This discharge is not available to persons in the Army who are discharged with *less* than 21 months of service, as the minimum period of enlistment is two years.

Acceptable narrative reasons on DD Form 214:

Most discharges under ☐10 U.S.C. 1171 have one of the following narrative reasons for discharge on the *DD Form 214*:

- "Oversea Returnee"
- "Expiration of Term of Service," or
- "Completion of Required Service."

Accept a *DD Form 214* with one of these narrative reasons and at least 21 months of service as proof of discharge under ☐10 U.S.C. 1171 without further development. Any other narrative reason for discharge for an enlisted person who served at least 21 months requires development to determine if the discharge was under ☐10 U.S.C. 1171.

Restrictions for Public Health Service (PHS) and National Oceanic and Atmospheric Administration (NOAA) enlistments.

This discharge cannot be authorized by the PHS and NOAA as only officers serve in those branches.

Discharge
under ☐10
U.S.C. 1173

Description:

This discharge applies to an individual discharged for hardship.

Acceptable narrative reasons on DD Form 214:

A *DD Form 214* issued for reasons of hardship must reflect a narrative reason for separation as follows:

- Army: "Hardship" or "Dependence"
- Marine Corps: "Hardship" or "Dependency"
- Air Force: "Hardship"
- Coast Guard: "Hardship"
- Navy: "Hardship" or "Demonstrated Dependency."

Note: "Demonstrated Dependency Not Meeting the Requirements of BUPERS Manual 3850/240" does not denote a hardship discharge qualifying an individual for benefits under the law.

Note: Develop for cases in which

- *DD Form 214* is unclear as to the reason for discharge, and
- discharge for hardship is alleged, but not stated.

Disability
discharge

Description:

This discharge is for those individuals who

- are discharged or released from active duty for a disability determined to be SC without presumptive provisions of law, or
- at the time of discharge, had such a SC disability shown by official records which, in medical judgment, would have justified a discharge for disability.

Compensable
SC disability

Description:

This discharge applies to individuals with a compensable SC disability.

[III.ii.6.4.d] **d. Entitlement to Benefits Before Enactment of 38 U.S.C. 5303A**

Entitlement to any benefit legally provided prior to the date of enactment of ☐ 38 U.S.C. 5303A, October 1, 1981, based on minimum active duty service requirements in effect at that time, is not affected.

Example: An individual issued a certificate of eligibility for a VA home loan guaranty prior to October 1, 1981, continues to be eligible for that benefit even though his/her active duty service no longer qualifies him/her under ☐ 38 U.S.C. 5303A.

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[III.ii.6.5] **5. General Information Regarding Verification of Service and Character of Discharge**

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- b. Determining Prisoner of War Status
- c. Where to Find Detailed Procedures Regarding the Verification of Character of Discharge
- d. Considering Travel Time When Verifying Service for Eligibility Determinations
- e. Requesting Certification of Travel Time if a Veteran Dies or Is Disabled
- f. Determining Travel Time for PHS Claimants
- g. Payment of Compensation Prior to Service Verification for a Veteran Retired for Length of Service
- h. Payment of NSC Burial Benefits

Change Date

November 15, 2004

[III.ii.6.5.a] **a. Verifying Service and Character of Discharge**

Verify active service dates and character of discharge by first reviewing the available service department records or other acceptable evidence of service in the claims folder. If a review of the claims folder indicates that

- the available evidence is incomplete or information is questionable, request further verification or additional data via Personnel Information Exchange System (PIES), or
- no service department records or other acceptable evidence is available, request verification and information from the service department via PIES as provided in ☐M21-1MR, Part III, Subpart iii, Chapter 2.

[III.ii.6.5.b]b. Determining Prisoner of War Status

Review the claim and the available service and separation records for any indication that the veteran was a prisoner of war (POW).

Reference: If the veteran is a former POW, see ☐M21-1MR, Part IV, Subpart ii, 1.G.

[III.ii.6.5.c]c. Where to Find Detailed Procedures Regarding the Verification of Character of Discharge

For detailed information regarding the verification of character of discharge, see ☐M21-1MR, Part III, Subpart iii, Chapter 2.

For information on making determinations about character of discharge, see ☐M21-1MR, Part III, Subpart v, Chapter 1.

[III.ii.6.5.d]d. Considering Travel Time When Verifying Service for Eligibility Determinations

Under ☐38 U.S.C. 106(c), a serviceperson is considered to remain on active duty after discharge or release for the period of time necessary to travel directly home. Travel time is determined by the service department, however, a person is always considered to be on active duty until midnight of the day of discharge or release.

Consider travel time in determining eligibility to benefits requiring 90 days or 24 months of active service. By adding travel time as certified by the service department, the required period of active service may be met. If there is a possibility that the information regarding travel time may be determinative, request the information from the service department in accordance with ☐M21-1MR, Part IV, Subpart iii, Chapter 2.

Note: Do not routinely request certification of travel time if the records show that the veteran had less than 80 days of active service. In these cases, request certifications only if

- travel time is put at issue by the claimant, or
- unusual circumstances exist, such as an overseas discharge.

[III.ii.6.5.e]e. Requesting Certification of Travel Time if a Veteran Dies or Is Disabled

If the veteran is disabled or dies from an injury within 11 days after discharge from service, compensation or Dependency and Indemnity Compensation (DIC) may be payable.

In these cases, or if travel time is put at issue by the claimant, make an inquiry to the service department as to whether the veteran was entitled to travel time under ☐38 U.S.C. 106(c) for the date and hour on which the injury or death occurred.

[III.ii.6.5.f]f. Determining Travel Time for PHS Claimants

For PHS claimants, accept the dates shown on the separation document as including travel time.

The PHS determines travel time prior to separation and includes it in the active duty dates.

[III.ii.6.5.g]g. Payment of Compensation Prior to Service Verification for a Veteran Retired for Length of Service

Use the procedure in the table below if

- the evidence shows that the veteran retired due to length of service, and
- medical records are available, but not all service periods are verified.

Note: This procedure applies *only* to veterans who are retired from the military for length of service.

Step	Action
1	<ul style="list-style-type: none"> • Request verification from the appropriate service department of unverified service periods via PIES, and • maintain a 60-day control.
2	Send the claims folder to the rating activity for action.
3	<p>If</p> <ul style="list-style-type: none"> • service connection is granted, go to Step 4 • service connection is denied, go to Step 5, and • no response is received from the service department within 60 days, go to Step 6.
4	<p>When service connection to a compensable degree is granted</p> <ul style="list-style-type: none"> • input data to process the compensation award • enter the unverified EOD date from service medical records or <i>VA Form 21-526, Veteran's Application for Compensation or Pension</i>, in the EOD field on the Benefits Delivery Network (BDN)/SHARE 301 screen • update the Beneficiary Identification and Records Locator Subsystem (BIRLS)/SHARE Veteran Identification Data (VID) screen to show <ul style="list-style-type: none"> ◦ the service dates used on the BDN 301 screen ◦ "UNK" in the SEP RSN CODE field, and ◦ "N" in the VERIFIED field • GAP • the authorizer will continue the end product (EP) for 60 days, and • go to Step 6.
5	<p>When service connection is denied or when service connection is granted at a non-compensable degree</p> <ul style="list-style-type: none"> • input data to process the disallowance • GAP, and • the authorizer will clear the end product (EP) during CAUT.
6	<p>When no response is received from the service department within 60 days</p> <ul style="list-style-type: none"> • check the status of the request via PIES as outlined in <input type="checkbox"/>M21-1MR, Part III, Subpart iii, Chapter 2.I.

When a response is received from the service department

- update the service data in BIRLS and the Master Record, and
- clear the EP control.

[III.ii.6.5.h]h. **Payment of NSC Burial Benefits**

If, during a veteran's lifetime, he/she was awarded VA compensation or pension, use the same evidence of service relied on to authorize such payment to pay nonservice-connected (NSC) burial benefits, if otherwise in order.

However, if there is reason to doubt the correctness of the evidence, the evidence must be verified before payment can be authorized.

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[III.ii.6.6]6. **Forms of Evidence for Verification of Service and Character of Discharge**

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- a. Acceptable Forms of Evidence
- b. Specific Procedures for Carbon Copies of July 1, 1979, Edition of the DD Form 214
- c. Acceptable Alternative Evidence for Verification of Service
- d. Using the BIRLS VID Screen as Proof of Service
- e. When the Claimant Has Submitted an Unacceptable Alternate Form of Evidence

Change Date

April 19, 2005

[III.ii.6.6.a]a. **Acceptable Forms of Evidence**

Consider only the documentary evidence of qualifying service listed below as adequate evidence of service for eligibility determinations. This evidence is submitted after separation from service.

Note: If the original document is received, photocopy it, authenticate it as a copy of the original document, and return the original to the claimant.

- The original (copy 1) of
 - *DD Form 214* (only editions dated before July 1, 1979. The original of the edition dated July 1, 1979, is *not* acceptable evidence because it does not provide all required information for an eligibility determination.)
 - *PHS Form 1867*, which is furnished by the Public Health Service (PHS)
 - *NOAA Form 56-16*, which is furnished by the National Oceanic and Atmospheric Administration (NOAA)
 - report of separation documents issued prior to the implementation of *DD Form 214* that include name, rank, service number, dates, character of service and the veteran's signature, and

- AHRC Form 1569, Transcript of Military Record, which is furnished by the Department of Military and Veterans Affairs. For additional information, see □M21-1, Part III, Chapter 4, Addendum 4-A-12.
- Any carbon copy of the original *DD Form 214* (any edition) or other report of separation document. (For procedures that apply to copies of the July 1, 1979, edition of the *DD Form 214*, see □M21-1MR, Part III, Subpart ii, 6.6.b.)
- A copy or abstract of the *DD Form 214* or equivalent certified by a local or State government official whose office recorded the original service document. (A copy or abstract of the original (copy 1) of *DD Form 214* dated July 1, 1979, is *not* acceptable.)

[III.ii.6.6.b]b. Specific Procedures for Carbon Copies of July 1, 1979, Edition of the DD Form 214

Use the information in the table below to handle various copies of the July 1, 1979, edition of *DD Form 214*.

If the copy of <i>DD Form 214</i> received with the claim is ...	Then ...
Copy 3	<ul style="list-style-type: none"> • photocopy the document • authenticate the photocopy, and • forward Copy 3 to <i>VA Data Processing Center VADS (391A) 1615 East Woodward Street Austin, Texas 78772, and</i> • annotate the photocopy with "<i>Copy 3 sent to DPC (date).</i>"
Copy 4	<ul style="list-style-type: none"> • photocopy the document • authenticate the photocopy, and • return Copy 4 to the claimant.
Copy 5	<ul style="list-style-type: none"> • photocopy the document • authenticate the photocopy • send the carbon copy to the <i>U.S. Department of Labor Unemployment Insurance Systems Design Center P.O. Box 44246 Capital Station Baton Rouge, LA 70804, and</i> • annotate the copy with "<i>Copy 5 sent to DOL (date).</i>"
Copy 6, 7, or 8	<p>retain the copy in the claims folder unless the claimant has requested that it be returned.</p> <p>Note: If the claimant requested the return of the document</p> <ul style="list-style-type: none"> • photocopy the document • authenticate the photocopy, and • return the original to the claimant.

Notes:

- Authorized employees of the Veterans Service Center (VSC) can authenticate photocopies of *DD Form 214*.
- Copy 2 of *DD Form 214* is retained by the appropriate service department as the permanent record of the veteran's service.
- If the "Remarks" section of the *DD Form 214* contains the entry "*Continuous active military service: XX-XX-XX[Date]*," service is verified from that date, regardless of any later date shown in the Enter(ed) on Duty (EOD) section of the form. A *DD Form 214* with such an entry is acceptable proof of EOD and Released from Active Duty (RAD) dates. Enter these dates in BIRLS and the Master Record.

[III.ii.6.6.c]c. **Acceptable Alternative Evidence for Verification of Service**

If one of the documents listed in ☐M21-1MR, Part III, Subpart ii, 6.6.a is not received in support of a claim, verify military service by a BIRLS Inquiry (BINQ) command to determine character of discharge and separation reason.

[III.ii.6.6.d]d. **Using the BIRLS VID Screen as Proof of Service**

The BIRLS VID screen can be used as proof of service if *all* of the following apply:

- character of service is *Honorable (HON)* or *Under Honorable Conditions (UHC)*
- branch of service code is *not ARNG* or *ANG*
- separation reason is *Satisfactory (SAT)*
- there is a "Y" in the VADS field, and
- the veteran's RAD is 6/1/68 or later.

Note: If there is no "Y" in the VADS field or the veteran's RAD is not June 1, 1968, or later, the VID screen can still be used as proof of service if *all* of the following apply:

- character of service is *HON* or *UHC*
- branch of service is *not ARNG* or *ANG*
- separation reason is *SAT*, and
- there is a "Y" in the VER field.

[III.ii.6.6.e]e. **When the Claimant Has Submitted an Unacceptable Alternate Form of Evidence**

If a claimant has submitted an alternate form of evidence of service which cannot be accepted and his/her military service cannot be verified

- send a denial letter which
 - explains the attempts to verify service, and
 - describes the acceptable forms of evidence, and
- furnish notice of procedural and appeal rights.

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[III.ii.6.7]7. **Benefit-Specific Eligibility Factors**

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- b. Eligibility Determinations for Compensation
- c. Eligibility Determinations for Pension
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- e. Eligibility Determinations for Related Benefits
- f. Eligibility for Chapter 18 Benefits

Change Date

April 19, 2005

[III.ii.6.7.a]a. General Guidelines for Reviewing and Processing an Original Application for VA Benefits

In reviewing and processing an original application for VA benefits, the Veterans Service Representative (VSR) must determine if the claimant meets the eligibility criteria for the specific benefits only after

- veteran status has been established
- service has been verified, and
- character of discharge has been found to be other than dishonorable.

Note: In order to verify service, review active duty dates and verify character of discharge by

- reviewing the discharge document
- obtaining verification by the service department, or
- obtaining a VA administrative decision, when necessary.

[III.ii.6.7.b]b. Eligibility Determinations for Compensation

If a claim is submitted for SC disability and honorable active service is verified, compensation entitlement is determined by the rating activity.

When a rating decision is completed, the decision indicates whether a veteran is entitled to compensation and, if so, to what degree. In addition, the rating decision may include entitlement to special monthly compensation and any related benefits.

[III.ii.6.7.c]c. Eligibility Determinations for Pension

Basic pension eligibility is established if a veteran

- served at least 90 days, part of which was during a wartime period, *or*
- served any amount of time during a period of war and
 - was discharged for a disability incurred or aggravated in service, *or*
 - had an SC disability at the time of discharge that would have justified a discharge for disability, *and*
- meets the minimum active duty service requirement as provided under ☐38 U.S.C. 5303A.

Note: If these eligibility criteria are met, entitlement to pension payments based on disability and income must be determined as outlined in ☐M21-1MR, Part V, Subpart iii, Chapter 1; ☐M21-1MR, Part IV, Subpart ii, Chapter 2 and ☐M21-1MR, Part V, Subpart ii, Chapter 1.

References: For information on

- SC disabilities at the time of discharge, see ☐38 CFR 3.3, and
- the specific requirements concerning minimum active duty service requirements under ☐38

U.S.C. 5303A, see ☐M21-1MR, Part III, Subpart ii, 6.4.

[III.ii.6.7.d]d. Eligibility Determinations for Death Benefits

Based on the individual who files the claim for death benefits, consider the factors listed in the table below.

If...	Then...
the claimant is a surviving spouse or child who has filed for death pension	the veteran's service must meet the basic eligibility criteria of <input type="checkbox"/> M21-1MR, Part III, Subpart ii, 6.7.c for pension.
the claimant is a surviving spouse, child, or parent who has filed for Dependency and Indemnity Compensation (DIC)	refer the claim to the Rating activity for a determination. Note: If death occurred in service, see <input type="checkbox"/> M21-1MR, Part IV, Subpart iii, 1.2 to determine if a rating is necessary. Exception: If a parent(s) income is excessive for DIC, disallow the claim without referral to the Rating activity.
the claimant is a surviving spouse, child or parent who has filed for death pension or DIC	the claimant's relationship to the veteran must be established. Reference: For information on relationship, see <input type="checkbox"/> 38 CFR 3.50 through <input type="checkbox"/> 38 CFR 3.60.
the claim is for a burial or plot allowance	the specific requirements of <input type="checkbox"/> 38 CFR 3.1600 must be met.

[III.ii.6.7.e]e. Eligibility Determinations for Related Benefits

Use the table below when making eligibility determinations regarding related benefits.

Type of Related Benefit	Eligibility Requirements
Automobile or other conveyance allowance (one-time payment)	Requires SC disability which results in <ul style="list-style-type: none"> loss, or permanent loss of use, of <ul style="list-style-type: none"> one or both feet, or one or both hands, or permanent impairment of vision of both eyes to a prescribed degree. References: For more information on payment and eligibility for automobile allowance, see <ul style="list-style-type: none"> <input type="checkbox"/>M21-1MR, Part IX, Subpart i, 2, and <input type="checkbox"/>38 CFR 3.808.
Specially adapted housing and special	Requires SC disability that results in prescribed limitations.

home adaptation grants

References: For information on eligibility factors, see

- ☐ M21-1MR, Part IX, Subpart i, 3
- ☐ 38 CFR 3.809, and
- ☐ 38 CFR 3.809a.

Restored Entitlement Program for Survivors (REPS) (Special allowance under *Public Law (PL) 97-377*, Section 156)

Requires a formal determination concerning the veteran's death and disability.

References: For information on REPS, see

- ☐ 38 CFR 3.812, and
- ☐ M21-1MR, Part IX, Subpart i, 6

Vocational rehabilitation

☐ 38 U.S.C. Chapter 31 requires

- a combined SC disability evaluation of at least 20 percent, and
- an evaluation and determination of entitlement by the VR&E Division, or
- a combined SC disability evaluation of 10 percent with a VR&E finding of a serious employment handicap.

References: For information on VR&E benefits, see

- ☐ M28-1, and
- ☐ 38 CFR Part 21, Subpart A.

Dependents Educational Assistance (DEA)

☐ 38 U.S.C. Chapter 35 requires

- permanent and total SC disability (This means either a combined evaluation of 100 percent or a total rating due to individual unemployability, both with no future examination.)
- SC death, or
- permanent and total SC disability at the time of death.

Note: Generally, a dependent must be established for benefit purposes and a child must have completed high school or be beyond the compulsory age for school attendance.

References: For more information on DEA, see

- ☐ M22-4, Part VII, and
- ☐ 38 CFR Part 21, Subpart C.

[III.ii.6.7.f] **Eligibility for Chapter 18 Benefits**

Benefits for children of Vietnam veterans who are born with spina bifida (Chapter 18 benefits) are

not dependent on the character of discharge. That is, regardless of the characterization of the service of the veteran parent, individuals may receive Chapter 18 benefits if the necessary Vietnam service and relationship requirements are met.

Reference: For more information on eligibility and development for Chapter 18 benefits, see ☐M21-1MR, Part VI, 2.B.

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